

# **CHATHAM COUNTY WATERSHED PROTECTION ORDINANCE**

**Ordinance Adopted December 6, 1993  
Ordinance Effective January 1, 1994  
Latest Revision February 16, 2009**

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**WATERSHED PROTECTION ORDINANCE**

**ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS**

**Section 101. Authority and Enactment.**

The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Governing Board of Chatham County does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Chatham County.

**Section 102. Jurisdiction.**

The provisions of this Ordinance shall apply within all of Chatham County outside incorporated municipalities. The Ordinance may apply within incorporated municipalities when provided by an interlocal agreement. The extra-territorial jurisdiction of municipalities may be exempted from the jurisdiction of the Ordinance by an interlocal agreement. Various categories of water supply watersheds are shown on the maps entitled "Watershed Protection Map of Chatham County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Clerk to the Chatham County Board of County Commissioners.

**Section 103. Exceptions to Applicability.**

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Book of Ordinances of Chatham County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in this ordinance, is not subject to the requirements of this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance; however, the built-upon area of the existing development is not required to be included in the density calculations.

(D) A pre-existing lot owned by an individual prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this ordinance except Section 304 where practicable. However, this exemption is not applicable to multiple contiguous lots under single ownership unless the lots violate the minimum lot size established by the N.C. Environmental Management Commission. Lots in violation of N.C. Environmental Management Commission minimum standards shall be combined according to Section 307(A)(2).

**Section 105. Criminal Penalties.**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall be \$500.00. Each day that the violation continues shall constitute a separate offense.

**Section 106. Remedies.**

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Chatham County Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with North Carolina G.S. 143-215.6(a). Civil penalties shall be assessed in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00

per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties each day such violation continues shall be considered a separate and distinct offense. (#9)

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the owner or person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

**Section 107. Severability.**

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

**Section 108. Effective Date.**

This Ordinance shall take effect and be in force on and after January 1, 1994.

**Section 109. General Definitions (#10)**

**Agricultural Activities.** Includes the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

- (i) forage and sod crops, grain and feed crops, tobacco, cotton,  
and peanuts.
- (ii) dairy animals and dairy products.

- (iii) poultry and poultry products.
- (iv) livestock, including beef cattle, sheep swine, horses, ponies, mules, and goats.
- (v) bees and apiary products.
- (vi) fur producing animals.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Animal Unit.** A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

**Bankfull Discharge.** The flow of water which fills a stable alluvial channel to the elevation of the active floodplain. This discharge is morphologically significant because it identifies the bankfull elevation. On average, bankfull discharge occurs every 1.5 years in frequency.

**Bankfull Elevation.** The elevation where flooding occurs on an active floodplain. This elevation may or may not be the top of bank.

**Best Management Practices.** Effective and practical structural or nonstructural methods which prevent or reduce the movement of sediment, nutrients, pesticides and other pollutants from the land to surface or ground water, or which otherwise protect water quality from potential adverse effects of development, silvicultural, agricultural and other land disturbance activities. These practices are developed as industry standards to achieve a balance between water quality and natural habitat protection and the economic benefits and desired use of the land.

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-upon area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Channel.** A natural water-carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated

flowing water or a ditch or canal excavated for the flow of water.

**Clerk to the Watershed Review Board.** The Watershed Administrator or other person appointed by the County.

**Cluster Development.** The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. "Planned Residential Developments," as provided for under the Chatham County Zoning Ordinance and "Planned Unit Developments," as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance.

**Compact Community.** A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Conservation Subdivision.** An alternative approach to the subdivision of land where large, contiguous blocks of open space are preserved. Developments designed under this approach are granted a density bonus for the developed areas; however under no circumstance is the development allowed to exceed the minimum state mandated watershed district requirements. (#12)

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. See definition of Land Disturbing

Activity.

**Diffuse Flow.** Non-concentrated, low velocity flow of storm water runoff that is spread out or distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

**Discharging Landfill.** A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Ditch or Canal.** An excavated (man-made) channel that is typically dug through inter-stream divide areas. A ditch or canal may exhibit hydrological or biological characteristics similar to perennial or intermittent streams. For the purposes of this Ordinance, a ditch or canal is not considered to be an ephemeral, intermittent or perennial stream.

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one family.

**Ephemeral (storm water) Stream.** A physically visible feature in the form of a natural channel that conveys water only in direct response to precipitation during or shortly after precipitation events. For the purposes of this Ordinance, an ephemeral (storm water) stream is a well-defined channel which scores between "3 - 18" points on the NCDWQ Stream Identification Form<sup>1</sup>, to distinguish it from an intermittent or perennial stream. (See, *Identification Methods for the Origins of Intermittent and Perennial Streams*, NCDWQ, Version 3.1, 2006). An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

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<sup>1</sup> From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005)

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(2) having an outstanding valid building permit as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1), or

(3) having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1).

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Family Subdivision.** Family subdivision means one or more divisions of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance.

**Hazardous Waste.** Any material as defined by 15A NCAC §13A .0106 *Identification and Listing of Hazardous Wastes - Part 261* or any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances) or a RECRA Hazardous Waste that appears on one of the four hazardous wastes lists: (F-List; K-List; P-List or U-List) or exhibits at least one of the four characteristics: ignitability; corrosivity; reactivity or toxicity.

**Home Occupations.** Any use conducted on residential premises and carried on by the occupants thereof, which use is incidental and secondary to the use of the premises for residential purposes and does not change the character thereof.

**Industrial Development.** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Impervious Surface.** See *Built-upon Area*.

**Intermittent Stream.** A well defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by storm water runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water. For the purposes of this ordinance, an intermittent stream will have a minimum score of "19" on the NCDWQ Stream Identification Form, Version 3.1.

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

**Lot.** A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**Major Variance.** A variance that results in any one or more of the following:

- 1) the complete waiver of a management requirement;
- 2) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard;
- 3) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.

**Minor Variance.** A variance that does not qualify as a Major Variance.

**Natural.** When used in reference to streams and channels means those streams and channels formed by the existing surface topography of the earth prior to changes made by man.

**Non-residential Development.** All development other than residential development, agriculture and silviculture.

**Normal Pool Elevation.** The natural or design elevation of a perennial water body.

**Perennial Stream.** A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater

is the primary source of water for a perennial stream, but it also carries storm water runoff. A perennial stream exhibits the typical biological, hydrological and physical characteristics commonly associated with continuous conveyance of water. For the purposes of this ordinance, a perennial stream will have a minimum score of "30" on the NCDWQ Stream Identification Form,<sup>2</sup> Version 3.1.

**Plat.** A map or plan of a parcel of land which is to be, or has been subdivided.

**Residential Development.** Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**Riparian Buffer.** A natural or vegetated area that provides a protective distance between a seep, spring, stream, perennial water body or wetland and an adjacent land area which may be converted to some other use. The riparian buffer shall be measured horizontally on a line perpendicular from the top of bank or from the normal pool elevation of a perennial water body or wetland.

Seeps and Springs - For purposes of this Ordinance, seeps and springs are areas where groundwater intersects at or near to the ground surface either seasonally or permanently. These areas may or may not be considered jurisdictional by federal (ACoE) standards. Due to the broad variability in the size, number, location, connectivity, condition and other natural characteristics of seeps and springs, one or more of the following conditions must apply:

- a. Hydrophytic vegetation must be dominant. This is judged by the greater areal cover of plants (rooted in the putative seep or spring) with indicator status of obligate wetland (OBL) or facultative wetland (FACW) compared to the areal cover of plants (rooted in the putative seep or spring) with indicator status of upland (UPL) or facultative upland (FACU). Plants with facultative (FAC) indicator status are not considered. This definition may be summarized by the following

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<sup>2</sup> From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005).

formula:  $(OBL + FACW) > (UPL + FACU)$ . See Wetland Plants List.<sup>3</sup>

- b. The seep or spring is considered a water of the State of North Carolina by the NCDWQ.
- c. The seep or spring meets the criteria of a wetland based on the 1987 U.S. Army Corps of Engineers Manual.
- d. The seep or spring has surface water present seasonally or permanently.

**Single Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

**Silvicultural Activities.** undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality.

**Stream.** A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure.** Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;

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<sup>3</sup> See "National List of Vascular Plant Species that Occur in Wetlands" (U.S. Army Corps of Engineers, 1988 Official Wetland Plant List & 1993 Supplement).

- 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- 4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;
- 5) The division of a tract into plots or lots used as a cemetery.

**Top of Bank.** For the purposes of this Ordinance, the point on a stream's cross-section defined by the bankfull elevation or the highest point in elevation immediately adjacent to the stream channel, which ever is greater.

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

**Trail Management Plan.** A bound document providing details and descriptions of trail design, materials, alignment, management procedures, responsible party and schedule of maintenance activities to ensure adequate trail operations and maintenance in perpetuity.

The Plan will include, at a minimum, the following:

- a. Existing site conditions (including the status of the protected area)
- b. Needs and purpose (including intended use)
- c. Trail location based on site survey
- d. Design details
- e. Justification
- f. Responsible entity for design, implementation, maintenance and access control
- g. Short and long-term impacts (e.g., future trail relocations) should be identified
- h. Proposed mitigation due to impacts related to water quality and drainage

**Variance.** A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.), or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

**Watershed Administrator.** An official or designated person of the county responsible for administration and enforcement of this Ordinance.

**Watershed Review Board.** The Chatham County Board of Commissioners shall designate this review Board.

**Wetlands.** "Waters" as defined by N.C.G.S. § 143-212(6) and are areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

**Section 110. Word Interpretation. (#10)**

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

**ARTICLE 200: SUBDIVISION REGULATIONS.**

**Section 201. General provisions.**

(A) No subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Ordinance. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Ordinance.

**ARTICLE 300: DEVELOPMENT REGULATIONS**

**Section 301. Establishment of Watershed Area.**

The purpose of this Article is to list and describe the watershed areas herein adopted. The areas of Chatham County within the jurisdiction of this Ordinance as specified in Section 102 are hereby established as watershed areas.

For purposes of this Ordinance the county is hereby divided into the following areas:

(A) WS II - BW (Balance of Watershed):

This area is the portion of Chatham County draining to University Lake. Generally it is bounded on the east by U.S. 15-501, the south by S.R. 1532 (Manns Chapel Road), on the west by S.R. 1534 and on the north by the Chatham/Orange County line.

(B) WS III - CA (Critical Area):

This area is the land extending beyond the area designated as River Corridor, but within a distance of 2,640 feet from the normal pool elevation of approximately 540 feet of the Rocky River Lower Reservoir. (#8)

(C) WS III - BW (Balance of Watershed)

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This area is the land draining to the Siler City water system intake on the Rocky River.

(D) WS IV - CA (Critical Area):

This area is the land within: (1) One mile and draining to the water intakes for Pittsboro (Haw River), Sanford (Cape Fear River), and Goldston-Gulf (Deep River). (2) One-half mile from the normal pool level and draining to Jordan Lake.

(E) WS IV - PA (Protected Area):

This land is the area that is within 10 miles and draining to the water intakes listed in (D) (1) above and within 5 miles and draining to (D) (2) above.

(F) River Corridor (RC):

These areas consist of land within a line drawn parallel to rivers a distance of 2,500 feet from the banks except for specific excluded areas on the watershed maps.

(G) River Corridor Special Area (RCSA): This land is within the river corridor, but due to various existing infrastructure, is given a special designation on the watershed map and in the text.

(H) Local Watershed Area: (LWA): This land is all the area of Chatham County outside (A) - (G) above and outside the designated municipal watershed jurisdictions.

**Section 302. Watershed Areas Described.**

(A) WS-II Watershed Areas - Balance of Watershed (WS-II-BW)

(1) Allowed Uses:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended

by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development - limited to those permitted uses in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per 40,000 square feet on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(3) Prohibited Uses:

(a) New sludge application site

(b) New landfills

(c) Petroleum contaminated soil remediation

(d) Toxic or hazardous materials unless specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

(B) WS-III Watershed Areas - Critical Area (WS-III-CA).

(1) Allowed Uses:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

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(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential.

(d) Non-residential development - limited to those permitted uses listed in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(3) Prohibited Uses:

- (a) New sludge application sites
- (b) New landfills
- (c) Petroleum contaminated soil remediation
- (d) Toxic or hazardous materials unless

specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

(C) WS-III Watershed Areas - Balance of Watershed (WS-III-BW).

(1) Allowed Uses:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as

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determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis except that up to five percent (5%) of the balance of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project by project basis when approved as a special non-residential intensity allocation. The Watershed Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(3) Prohibited Uses:

(a) New sludge application sites.

(b) New landfills

(c) Petroleum contaminated soil remediation

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(d) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

(D) WS-IV Watershed Areas - Critical Area (WS-IV-CA)

(1) Allowed Uses:

(a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential.

(d) Non-residential development - limited to those permitted uses listed in attachment A except 1,000 feet from the intersection of U.S. 64 and S.R. 1008 where non-residential allowed, according to the business uses of attachment B.

(#3) (e) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: computer sales and service; internet service providers; art and craft sales; clothing sales; fishing equipment sales; sale, rental and service of water sports equipment; and consultation services such as financial, marriage, personal and any other type of individual or group counseling. Uses allowed under this subparagraph (e) shall be subject to the following:

(I) Uses enumerated shall be allowed on at least one road classified as a collector road, or higher classification; and

(II) The use area shall be restricted to a location within 500 feet of a road

intersection, and

- (III) The land area involved at a quadrant of an intersection shall not be greater than two acres, and
- (IV) All uses involving the storage of toxic, hazardous, or highly flammable substances shall be prohibited.

(#5) (f) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: high-tech precision computerized machine shop to Attachment A. Uses allowed under this subparagraph (f) shall be subject to the following:

- (I) The amendment shall be applicable to the Jordan Lake Critical Area only.
- (II) To keep the area of land used for this use at a minimum the property shall be no larger than 5 acres in size or the percentage of area devoted to said use shall be reduced such that it does not exceed that used for a 5 acre tract.
- (III) Liquids used in the operational processes of the industry shall be stored under cover with spill containment equal to at least one half the volume of the liquid stored."

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per acre on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision. (#12)

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision (#12).

(3) Prohibited Uses:

- (a) New sludge application sites
- (b) New landfills
- (c) Petroleum contaminated soil remediation
- (d) Toxic or hazardous materials unless specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

(E) WS-IV Watershed Areas - Protected Area (WS-IV-PA).

(1) Uses Allowed:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(b) All Other Residential and Non-Residential--

development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(3) Prohibited Uses:

(a) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

(F) River Corridor (RC)

(1) Allowed Uses:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development listed as permitted uses in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall average one dwelling unit per five (5) acres on a project by project basis, except within conservation subdivisions that shall not exceed one (1) dwelling

unit per acre, as defined on a project by project basis. No residential lot shall be less than three (3) acres, except within an approved cluster development, a family subdivision may have lots a minimum of two acres in size, or conservation subdivision. (#1)(#12)

(b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. The minimum lot size shall be five (5) acres. No residential lot or non-residential lot shall be less than (5) acres except within an approved cluster development or conservation subdivision.

(3) Prohibited Uses:

- (a) New sludge application sites
- (b) New landfills
- (c) Petroleum contaminated soil remediation
- (d) Buildings, equipment or material storage within the 100 year flood hazard area as designated on the most recent "Flood Hazard Boundary Map Chatham County Unincorporated Areas"
- (e) Toxic or hazardous materials unless specifically in relation to a permitted use, and unless a spill containment plan is approved and implemented.

(G) River Corridor Special Area - (RCSA):

(1) Uses Allowed:

(a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

- (c) Residential development.
- (d) Non-residential development.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development or conservation subdivision. (#12)

(b) All Other Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. In addition, non-residential uses may occupy fifty percent (50%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision.

(3) Prohibited Uses:

- (a) New sludge application sites
- (b) New landfills
- (c) Petroleum Contaminated soil remediation
- (d) Buildings, equipment or material storage within the 100 year flood hazard area as designated on the most recent "Flood Hazard Boundary Map Chatham County Unincorporated Areas"
- (e) Toxic or hazardous materials unless a spill containment plan is approved by the County Fire Inspector and implemented.

(H) Local Watershed Area - (LWA):

(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the

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Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten(10)foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(c) Residential development.

(d) Non-residential development.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(b) All Other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. In addition, non-residential uses may occupy ten percent (10%) of the watershed outside A-G above with a seventy percent (70%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No

residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision.

(3) Prohibited Uses:

(a) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

**Section 303. Cluster Development.**

Clustering of development is allowed in all Watershed Areas of the County under the following conditions:

(A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 302. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. (#7,13)

(B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(C) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

**Section 304. Riparian Buffers Required.(#10)**

(A) Buffers Required. Where applicable, a permanently protected "riparian buffer" shall be required for development. Field location and classification of streams to locate perennial, intermittent or ephemeral stream will be conducted using the most current NC Division of Water Quality methodologies and methodologies described in this Ordinance. Surface waters or streams may be indicated on the latest USGS 1:24,000 scale (7.5 minute) quadrangle map, the NRCS Soil Survey for Chatham County, NC, and other maps provided by the County. These maps may be used in combination as a screening tool only and do not represent the actual extent and location of surface waters and streams in Chatham County.

(B) Field Delineations. Field delineations of wetlands shall continue to be conducted using the 1987 U.S. Army Corps of Engineers methodologies<sup>4</sup> and supplements for each development project. For the purposes of this Ordinance, all stream classifications must be conducted by a qualified professional who has received documented certification of training in classifying streams and surface waters in North Carolina and; all seep, spring and wetland delineations must be conducted by a qualified professional who has at least 2 years of demonstrated experience in conducting wetlands delineations in North Carolina under the Clean Water Act Sections 401 and 404 provisions. All field determinations of streams, seeps and springs shall be subject to review and approval by the County. Wetlands considered to be non-jurisdictional by the US Army Corps of Engineers or the NC Division of Water Quality are subject to Chatham County riparian buffers.

(C) Exemptions to Riparian Buffer Requirements.

1). Existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing development as set forth in § 103 and §307 of this Ordinance. For the purposes of this Ordinance, the existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing developments are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments.

2). Tracts or parcels that are exempt from the definition of subdivision as listed below, provided that they are required to the meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments:

a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the standards of the subdivision regulations;

b) The public acquisition by purchase of strips of land for the widening or opening of streets;

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<sup>4</sup> Currently, the applicable version is known as: *Environmental Laboratory (1987) Corps of Engineers Wetlands Delineation Manual*, Technical Report Y-87-1, and supplements, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.

c) The division of a tract into plots or lots used as a cemetery.

3). Existing Agricultural Activities. (*see definition of Agricultural Activities in § 109*).

4). Existing Silvicultural Activities. (*see definition of Silvicultural Activities in § 109*).

(D) Buffers by Surface Waters Classification.

1. *Perennial Streams* - The riparian buffer shall be one hundred (100') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of perennial streams, or shall be the full horizontal extent of the Area of Special Flood Hazard<sup>5</sup> as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.

2. *Intermittent Streams* - The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of intermittent streams.

3. *Ephemeral Streams* - The riparian buffer shall be thirty (30') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides along all ephemeral streams.

4. *Wetlands* - The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from the delineated boundary, surrounding all features classified as wetlands and linear wetlands.

5. *Seeps and Springs* - The riparian buffer shall be thirty (30') feet landward surrounding all seeps and springs measured horizontally on a line perpendicular from the delineated boundary.

(E) Identification Procedures.

1. The origins, endpoints and boundaries of classified streams and water bodies shall be clearly marked with flagging and accurately located on a map. All delineated streams, water bodies and boundaries shall be submitted to the County for review and approval. If adjacent property access is necessary to render

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<sup>5</sup> Chatham County Flood Damage Prevention Ordinance (adopted December 18, 2006).

a classification, permission from the relevant property owner(s) is required. Otherwise, classifications will be based on the observable features within the property in question.

2. Before any land disturbance activities may begin, and in addition to any erosion control notification, the riparian buffer boundaries shall be clearly flagged in the field and approved by county staff. Tree protection fencing or other approved protective measures shall be installed along the approved flagging lines.

3. Allowable methodologies for establishing the location and extent of streams and water bodies in the field is described in the guidance document entitled, "*Field Procedures for the Classification of Streams and Waterbodies, Chatham County, NC*".

(F) Allowed Structures and Uses in Riparian Buffer.

The following structures and uses are allowed in the riparian buffer:

1. Water dependent structures (see definition of "water dependent structures" herein).

2. Signs and lighting as necessary for public health, safety and welfare purposes.

3. Drainage and forestry maintenance associated with agricultural and silvicultural activities, provided the applicable Best Management Practices are followed.<sup>6</sup>

4. Stream crossings (roads, driveways, trails) that are perpendicular to the stream flow. Stream crossings shall be designed to minimize the amount of stream channel bed and bank disturbance and shall comply with all applicable Best Management Practices and permit requirements. Stream crossing design alternatives that are preferred include: arches, span bridges and submerged culverts.<sup>7</sup> The following shall apply for stream crossings:

a. Bents or other support structures for bridges are

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<sup>6</sup> Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; and *Forest Practices Guidelines Related to Water Quality* (15 NCAC 1I.0101-.0209).

<sup>7</sup> See CSI Mitigation Measure No. 7 contained in the *Guidance Memorandum To Address And Mitigate Secondary And Cumulative Impacts To Aquatic And Terrestrial Wildlife Resources And Water Quality*, N.C. Wildlife Resources Commission (August 2002).

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not allowed within the bankfull area of perennial streams, except where necessary by permit on the Haw, Cape Fear and Deep Rivers.

b. For public road crossings, the crossing design shall be according to the alternative that best meets the intent of this Ordinance and as required by permit.<sup>8</sup>

c. Culverts or arches are allowed for crossing perennial, intermittent and ephemeral streams. Culverts and arches must be sized and designed in accordance to standard design practices, including allowing for safe passage for wildlife and floodplain flows. See footnotes 7, 8 and 9.

d. Fill required for crossings must not restrict flows up to a 25-year, 24 hour storm event, based on hydrologic and hydraulic models. Additional culverts within the "floodplain" and at bankfull elevation may be required to ensure these flows are not restricted. See footnotes 7, 8 and 9.

e. All stream crossings within a riparian buffer require an informal consultation meeting with County staff for private roads and County/NCDOT representatives for public roads, prior to sketch design submittal. See Subdivision Regulations, Section 4.2 A.

f. Concentrated discharge of road or driveway runoff into riparian buffers is not allowed. Diffuse flow into riparian buffers are allowed using Best Management Practices.<sup>9</sup>

5. Utilities crossings (water, sanitary sewer, electric, communication lines, easements, manholes, and appurtenances) are allowed in the riparian buffer only where no practicable alternative exists. Where stream crossings are necessary, the preferred methodology for crossings are (1) by attaching to bridges as permitted by NCDOT or private bridge owner; or (2) by directional boring under the riparian buffer and associated stream, water body, wetland, seep or spring, or (3) in combination with road crossings, culvert-type design within the

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<sup>8</sup> *Subdivision Roads Minimum Construction Standards*, N.C. Division Of Highways Board Of Transportation (January 1, 2000.) (This document is currently being amended. Subsequent amendments to this Construction Manual shall apply.)

<sup>9</sup> *Stormwater Best Management Practices Manual*, NC Division of Water Quality (July, 2007).

road right-of-way. Culvert-type crossings shall not cause any restriction of stream channel flows up to the 25-year 24-hour design storm. Sewage treatment crossings ephemeral streams may be trenched in accordance with the applicable laws and rules for sewage treatment disposal systems only for on-site (on parcel) sewage treatment systems.

6. Electric, petroleum and gas pipeline construction and maintenance activities within the prescribed easement area.

7. Stream and riparian buffer restoration and associated maintenance activities.

8. All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses. Land disturbance associated with these activities is limited to outer or landward fifty (50') feet for perennial, thirty (30') for intermittent and twenty (20') feet for ephemeral streams, measured from top of bank.

9. Where permitted by state or federal law for public health and safety purposes, wastewater treatment and disposal components, including surface and subsurface wastewater disposal areas. However, any buffer areas disturbed or impacted by these components must meet the erosion and sedimentation control design practices described in the North Carolina Erosion and Sedimentation Control Planning and Design Manual, June 1, 2006 or most current edition.

10. Maintenance activities associated with the uses listed above are allowed.

(G) Prohibited Structures and Uses in Riparian Buffer.

1. Utilities (i.e., gas, electric, communications, water lines, wells, sanitary sewer, lift stations, etc.) except where stream and buffer crossings are required. Stream and buffer crossings for utilities must be perpendicular to stream flow.

2. Receiving, collection, storage or distribution areas for hazardous waste and hazardous materials.

3. Sanitary landfills and landfills as defined in this Ordinance. Mulching or chipping of inert, organic plant materials is allowed for forestry or maintenance activities.

4. Constructed storm water features.

5. Discharge of concentrated storm water runoff or drainage from culverts, ditches, and other conveyances.

6. Entry by motor powered vehicles, except for the purpose of maintaining existing utility corridors (or new power line or gas corridors) and providing emergency services.

7. Excavation, land clearing, grading or fill material that is not allowed by permit.

8. Stream or buffer maintenance activities unless otherwise allowed by permit.

(H) Buffer vegetation requirements.

From and after the date of adoption of this ordinance, any of the above riparian buffers shall minimally remain in their existing vegetated condition. Other than for silvicultural or allowable forest management activities using Best Management Practices, clear cutting or forest thinning activities (less than a density of 100 stems per acre that are greater than 5 inches diameter 54" in height) is prohibited. If this activity occurs, the required buffer widths for the associated stream type must be doubled in width (excluding floodplain widths if applicable). If required, this density evaluation shall be completed by a forester, biologist, or environmental scientist and submitted to the County for review.

The riparian buffer shall otherwise remain in its existing forested condition, or if not forested, the following is required:

1. Natural regeneration of forest vegetation, OR
2. Planting of trees, shrubs, or ground cover plants provided that Best Management Practices are used. Plantings shall consist of species native to Chatham County.<sup>10</sup>
3. Invasive species listed by the North Carolina Botanical Garden may be physically removed from the buffer and is an allowed maintenance activity.<sup>11</sup>

(I) Determination of "No Practicable Alternative" or "Variances".

1. *No Practicable Alternative Authorization* The process,

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<sup>10</sup> Weakley, Alan S.; *Flora of the Carolinas, Virginia, and Georgia, and Surrounding Areas*, (UNC Herbarium, NC Botanical Garden, 2007).

<sup>11</sup> *Plants to Avoid in the Southeastern United States* compiled by Allison Schwarz and Johnny Randall, Spring 1999; *Controlling Invasive Plants*, NC Botanical Gardens (UNC Press, 2002).

procedure and requirements for obtaining this authorization is an Administrative Review procedure as found in § 507(A) of this Ordinance.

Owners of a lot who wish to undertake uses designated as "allowed" under subsection F(5) above shall submit a request for a "no practicable alternatives" determination by the Watershed Review Board or delegated authority. The applicant shall certify that the criteria identified in subsections (a), (b) and (c) below are met. The Watershed Review Board or delegated authority shall review the entire project and make a finding of fact as to whether a "no practicable alternatives" determination is met. The Watershed Review Board or delegated authority shall grant an "Authorization Statement" upon a "no practicable alternatives" determination. The procedure for issuing an Authorization Statement shall be based upon meeting all of the following criteria:

(a) The basic project purpose cannot be accomplished in a manner that would cause less land disturbance, preserve aquatic life and habitat, and protect water quality;

(b) The use cannot be reduced in size or density, reconfigured or redesigned to cause less land disturbance, preserve aquatic life and habitat and protect water quality; and

(c) Best Management Practices are used to cause less land disturbance, preserve aquatic life and habitat and protect water quality.

2. *Variances.* Persons who believe they are entitled to seek relief from a requirement of § 304 of this Ordinance may apply for a Variance. The process, procedure and requirements for obtaining a Variance are found in § 507(B) of this Ordinance.

**Section 305. Rules Governing the Interpretation of Watershed Area Boundaries.**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said

boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the county as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the Watershed Map.

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

**Section 306. Application of Regulations.**

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 307.

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

**Section 307. Existing Development.**

Any existing development as defined in this ordinance, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance. However, the built-upon area of the existing development is not required to be included in the density calculations.

(A) Vacant Lots. This category consists of vacant lots for

which plats or deeds have been recorded in the office of the Register of Deeds of Chatham County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

(1) Where the lot area is below the minimum specified in this ordinance the Watershed Administrator is authorized to issue a Watershed Protection Permit.

(2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, as established by the N.C. Environmental Management Commission, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or, if this is impossible, reduce to the extent possible the nonconformity of the lots.

(B) Occupied Lots. This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located as established by the N.C. Environmental Management Commission. Such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(C) Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(D) Reconstruction of Buildings or Built-upon Areas. There are no restrictions on single family residential development. Any other existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or

removed may be repaired and/or reconstructed provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

**Section 308. Watershed Protection Permit.**

(A) No building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

(B) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form (see Attachment C) and supporting documentation deemed necessary by the Watershed Administrator.

(C) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

(D) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

**Section 309. Building Permit Required.**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

**Section 310. Watershed Protection Occupancy Permit.**

(A) The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land. The Watershed Protection Occupancy Permit may coincide with the final Building Inspections Permit.

(B) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.

(C) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

(D) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

(E) No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

**Section 311. Compact Communities.**

For approved compact communities, the provisions set forth in the Chatham County Compact Communities Ordinance with regard to maximum density, built-upon areas, and stream buffers shall supplement the provisions hereof and in the event of a conflict, the most restrictive provision or the one which imposes the highest standard or requirement shall prevail, except as otherwise specified.

**ARTICLE 400: PUBLIC HEALTH REGULATIONS**

**Section 401. Public Health, in general.**

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation

found to pose a threat to water quality.

**Section 402. Abatement.**

(A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

(C) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

**ARTICLE 500: ADMINISTRATION, ENFORCEMENT AND APPEALS**

**Section 501. Watershed Administrator and Duties thereof.**

The county shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(A) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(B) The Watershed Administrator shall serve as clerk to the Watershed Review Board unless another person is appointed by the county.

(C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality. (#10)

(D) The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of five percent (5%) of the WS-III-BW watershed may be developed with non-residential development to a maximum of seventy percent (70%) built-upon surface area. The Watershed Administrator shall keep records of other special non-residential intensity allocations

(SNIA) as provided in this ordinance. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.

(E) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the county. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance. (#10)

**Section 502. Appeal from the Watershed Administrator.**

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in

person, by agent or by attorney.

**Section 503. Changes and Amendments to the Watershed Protection Ordinance.**

(A) The county Governing Board may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the county Governing Board may proceed as though a favorable report had been received.

(C) Under no circumstances shall the County Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management and with the N.C. Division of Environmental Health. (#10)

**Section 504. Public Notice and Hearing Required.**

Before adopting or amending this ordinance, the county Governing Board shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

**Section 505. Establishment of Watershed Review Board.**

(A) There shall be and hereby is created the Watershed Review Board consisting of a minimum of five (5) members appointed by the county Governing Board. The Chatham County Environmental Review Board is hereby appointed as the Watershed Review Board.

**Section 506. Rules of Conduct for Members.**

Members of the Board may be removed by the county Governing Board for cause, including violation of the rules stated below:

(A) Faithful attendance at meetings of the Board and

conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

(B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a 10 per cent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).

(C) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.

(D) Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.

(E) Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

(F) No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

**Section 507. Powers and Duties of the Watershed Review Board.**

(A) Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the county shall

notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions and general vicinity map.

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

(c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

(a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(1) If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting an variance.

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Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(2) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in

conditions or circumstances bearing on the appeal or application.

(5) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed.

The preliminary record of the hearing shall include:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence, and rulings on them;
- (e) Proposed findings and exceptions;
- (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat

to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) Subdivision approval. See Article 200.

(D) Public Health. See Article 400.

(E) Approval of all development greater than the low density option. (For Future Inclusion)

**Section 508. Appeals from the Watershed Review Board.**

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. The decisions of the Board are subject to review by the Superior Court by proceedings in the manner of certiorari.

ATTACHMENT A: Permitted Uses

Accessory uses and structures clearly incidental to a permitted use  
Accessory dwelling unit i.e. guest house, pool house, garage apartment and in-house apartment  
Animal husbandry, specialized with a minimum lot area of 15 acres  
Avocational farming  
Bed and Breakfast Inns with no more than six rooms for rent with a minimum lot area of three acres  
Boarding stables with a minimum lot area of three acres  
Breeding stables with a minimum lot area of three acres  
Boat, Camper, and Recreational Vehicle Storage  
Breeding kennels with a minimum lot area of three acres  
Churches and other places of worship provided such are located on a lot of not less than three acres  
Day Care Centers in the principal residence to accommodate not more than 15 children at any one time  
Day Care Center for more than 15 children with a minimum lot area of three acres  
Dwellings, single-family, manufactured  
Dwellings, single-family site built and modular  
Family Care Home limited to not more than six persons  
Fire Stations and emergency medical facilities with a minimum lot area of three acres

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Grounds and facilities for hunting and fishing clubs with a minimum lot area of 20 acres  
Grounds and facilities for non-profit clubs with a minimum lot area of three acres  
Guest house, pool house, garage apartment  
High-tech precision computerized machine shop [#5]  
Home occupations  
Horticulture, specialized with a minimum lot area of three acres  
Kindergartens and nurseries with a minimum lot area of three acres  
Mini-Warehouse Storage Facilities:  
a) Mini-warehouses shall not be allowed to keep on the premises explosives, inflammable liquid, hazardous/toxic waste and other pollutants, contraband, live animal, or other goods prohibited by law.  
b) Stormwater management facility to retain the first ½ inch of runoff from the impervious surface area  
Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standards set backs as set in the district in which they are located. (#11)  
Planned residential developments  
Public and private recreation camps and grounds  
Public parks and recreation areas including marinas and concessions with a minimum lot area of three acres  
Public utility facilities  
Schools, public and private with a minimum lot area of three acres  
Street and railway rights-of-way  
Public utility transmission lines  
Temporary construction trailers or structure  
Veterinary clinics and hospitals on tracts of land of at least ten (10) acres and where the use of x-ray equipment is limited to that of "digital" systems. (#11)

ATTACHMENT B:

Permitted Uses

ABC stores  
Amusement enterprises such as pool, bowling, roller rink when housed entirely within a permanent structure  
Antique and furniture shops  
Appliance sales and service  
Art supply retail sales  
Automobile repair garages  
Automobile sales and service  
Automobile service stations including tune-ups, minor repairs, tire service, washing facilities, both manual and automatic, and similar services. Fuel, oil and similar pumps and appliances may be located in the minimum required front and side yards provided that none shall be located nearer than 15

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feet to any street line and may be covered by an attached or free standing unenclosed canopy provided such canopy does not extend nearer than five feet to any property line and does not cover greater than 30% of the required yard area

Bait and tackle shops  
Bake shops and similar food preparation intended primarily for retail sales on the premises for consumption either on or off premises  
Banks, savings and loans, finance companies, credit agencies and similar financial institutions  
Bicycle sales and repair  
Boat, trailer and other utility vehicle sales and service  
Book, stationery and office supply stores  
Bus passenger stations  
Cabinet shops  
Catering establishments  
Churches and other places of worship  
Clothing shops  
Dairy bars and ice cream shops intended primarily for retail sale on the premises for consumption either on or off premises  
Drug stores  
Eating and drinking establishments  
Fabric shops  
Feed, seed, fertilizer retail sales  
Fire stations and emergency medical service facilities  
Florist shops  
Food stores, retail  
Funeral homes, embalming including crematoria  
Fur storage  
Furrier, retail sales  
Gift shops  
Hardware, appliances, electrical and similar items retail sales  
Heating, plumbing, electrical, cabinet and similar shops  
Horticulture, specialized  
Hospital, health and welfare centers, nursing homes  
Hotels, motels and inns  
Attachment B -(con't)

Incidental storage of goods intended for retail sales on the premises  
Interior design shops  
Jewelry and watch sales and service, goldsmith  
Laboratory - dental, medical, optical  
Landscape design business  
Landscaping and grading business  
Laundries, laundromats and dry cleaning establishments  
Lawn and garden shops  
Leather goods sales and service including manufacture for retail sales on premises  
Libraries, Museums and Art Galleries  
Lock and gunsmith

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Lodges, fraternal and social organization clubs  
Medical clinics - inpatient and outpatient care  
Mobile home sales and service  
Motorcycle sales and service  
Music stores  
Newsstands  
Office - business, professional and governmental  
Office - engineering supply and similar sales and services  
including blueprinting, photostating and similar services  
Opticians and optical sales and service  
Paint retail shops  
Pawnshops and secondhand stores  
Pet shops  
Photographic studios, camera shops  
Physical culture establishments  
Post offices  
Printing and publishing  
Public and private schools, training and conference centers  
Radio and television stations and their towers when the towers are  
located on the same site with the station  
Repair shops for jewelry, shoes, radios, televisions and other  
small office or household appliances  
Retail stores and personal service shops similar to those listed  
dealing in direct consumer and personal services  
Secretarial and job service offices  
Sporting goods sales  
Swimming pool and related items sales and service  
Temporary construction trailers or structures which meet the  
district setbacks  
Upholstery, wallpaper and decorator shops  
Uses and structures customarily accessory to any permitted use  
Veterinary clinics and hospitals with dog runs or equivalent  
facilities

**ARTICLE 700: AMENDMENTS**

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Amendment effective December 2, 2008 (#12)	
Amendment effective February 16, 2009 (#13)	

AMENDMENTS EFFECTIVE MAY 20, 1996 (#1)

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A) TEXT: Page 10 Section 302(F) - add language

(2) Density and Built-upon Limits:

(a) Single Family Residential-development shall average one dwelling unit per five (5) acres on a project by project basis. No residential lot shall be less than three (3) acres, except within an approved cluster development or a family subdivision may have lots a minimum of two acres in size.

B) TEXT: Page 28 Section 601 General Definitions - add language

Family Subdivision. Family subdivision means one or more divisions of a tract of land (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance.

AMENDMENT EFFECTIVE AUGUST 18, 1997 (#2)

A) TEXT: Page 3 Section 301 Establishment of Watershed Area, (D) WSIV-CA (Critical Area); Page 5 Section 302 Watershed Areas Described (D), (1) allowed uses (d) Non-residential development permitted uses in Attachment A (page 32)- add language

Mini-Warehouse Storage Facilities:

1. Mini-Warehouses shall not be allowed to keep on the premises explosives, inflammable liquid, hazardous/toxic waste and other pollutants, contraband live animals, or other goods prohibited by law.
2. Stormwater management facility to retain the first ½ inch of runoff from the impervious surface area.

AMENDMENT EFFECTIVE MAY 26, 1999 (#3)

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A) TEXT: Page 8 Section 302(D) WS-IV Watershed Areas Critical Area (WS-IV-CA)

(1) Allowed Uses: a new paragraph to be designated as "(e)", and to read as follows:

"(e) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: computer sales and service; internet service providers; art and craft sales; clothing sales; fishing equipment sales; sale, rental and service of water sports equipment; and consultation services such as financial, marriage, personal and any other type of individual or group counseling. Uses allowed under this subparagraph (e) shall be subject to the following:

(I) Uses enumerated shall be allowed on at least one road classified as a collector road, or higher classification; and

(II) The use area shall be restricted to a location within 500 feet of a road intersection, and

(III) The land area involved at a quadrant of an intersection shall not be greater than two acres, and

(IV) All uses involving the storage of toxic, hazardous, or highly flammable substances shall be prohibited."

AMENDMENT EFFECTIVE OCTOBER 16, 2000 (#4)

A) TEXT: Page 34 - ATTACHMENT A: Permitted Uses  
Add the following uses:

Boat, Camper, and Recreational Vehicle Storage

AMENDMENT EFFECTIVE APRIL 16, 2001 (#5)

A) TEXT: Page 8 Section 302(D) WS-IV Watershed Areas Critical Area )WS-IV-CA)

(d) Non-residential development - limited to those permitted used listed in attachment A except 1,000 feet from the intersection of U.S. 64 and

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S.R. 1008 where non-residential allowed, according to the business uses of attachment B.

A new paragraph to be designated as "(f)", and to read as follows:

"(f) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: high-tech precision computerized machine shop to Attachment A. Uses allowed under this subparagraph (f) shall be subject to the following:

- (I) The amendment shall be applicable to the Jordan Lake Critical Area only.
- (II) To keep the area of land used for this use at a minimum the property shall be no larger than 5 acres in size or the percentage of area devoted to said use shall be reduced such that it does not exceed that used for a 5 acre tract.
- (III) Liquids used in the operational processes of the industry shall be stored under cover with spill containment equal to at least one half the volume of the liquid stored."

AMENDMENT EFFECTIVE APRIL 19, 2004 (#6)

1. That Section 302 (C)(2)(a); (E)(2)(a); and (H)(2)(a) be amended by adding to the end of the second sentence therein the following:

"or compact community.", and

that Section 302 (C)(2)(b); (E)(2)(b); and (H)(2)(b) be amended by adding to the last sentence therein the following:

"or compact community."

2. That a new Section 311 be added to read as follows:

"Section 311. Compact Communities

For approved compact communities, the provisions set forth in the Chatham County Compact Communities Ordinance with regard to maximum density, built-upon areas, and stream buffers shall supplement the provisions hereof and in the event of a conflict, the

most restrictive provision or the one which imposes the highest standard or requirement shall prevail, except as otherwise specified."

3. That Section 601 entitled General Definitions be amended to read as follows:

"Compact Community - A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development."

**AMENDMENT EFFECTIVE MARCH 21, 2005 (#7)**

**Section 303. Cluster Development.**

1. That the first clause of Section 303 entitled "Cluster Development" and Subsection (A) thereof be amended to read as follows:

Clustering of development is allowed in all Watershed Areas of the County under the following conditions:

(A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 302. With regard to land lying within the Pokeberry Creek drainage area, known and referred to as "hydrologic unit # 03030002060010" and within more than one Watershed Area, the total number of lots allowed in the entire project shall be calculated as set forth for the respective applicable Watershed Areas set forth herein, but the lots may be located anywhere within the project and no maximum number of lots shall apply solely within the respective Watershed Areas. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. The applicant shall provide satisfactory evidence to support the cluster design as compared to the design allowed under the standard provisions of the Ordinance.

**Section 601 - General Definitions.**

2. That Section 601 entitled "General Definitions" and the definition of "Cluster Development" therein be amended to read as follows:

**Cluster Development.** The grouping of buildings in order to conserve land and provide for innovation in the design of the

project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. "Planned Residential Developments," as provided for under the Chatham County Zoning Ordinance and "Planned Unit Developments," as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance.

**AMENDMENT EFFECTIVE NOVEMBER 7, 2005 (#8)**

All amendments are in italic and all deletions are indicated with a strikethrough. The italic is only added for emphasis and is not to be incorporated into any amendments as approved by the Board of Commissioners.

**Section 102. Jurisdiction (pg. 2, Note: this section does not include a text amendment, but is an amendment to the watershed protection map)**

Adopt the revised map titled "Watershed Protection Map of Chatham County, North Carolina".

**Section 301. Establishment of Watershed Area. (pg. 5)**

(B) WS III - CA (Critical Area):

*This area is the land ~~within 1 mile and draining to the Siler City water system intake on Rocky River extending beyond the area designated as River Corridor, but within a distance of 2,640 feet from the normal pool elevation of approximately 540 feet of the Rocky River Lower Reservoir.~~*

**Section 304. Buffer Areas Required. (pg. 16)**

(A) A minimum fifty (50) foot vegetative buffer for development activities is required along all perennial and intermittent waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. *A minimum one hundred (100) foot vegetative buffer for development activities is required along all Rrivers. and A minimum one hundred (100) foot vegetative buffer for development activities is required along all perennial and intermittent waters within 2,500 feet of rivers shall have a minimum one hundred (100) foot vegetative buffer.* The vegetative buffers listed above shall be required unless the applicant demonstrates that a lesser distance (but not less than thirty (30) feet) is adequate to guard against stream pollution.

Evidence may be based on topography, soils, geology, and other pertinent information.

*A minimum one hundred (100) foot vegetative buffer is required along all perennial streams for all new development activities that exceed the low density option. A buffer width reduction is not allowed for development activities that exceed the low density option.*

AMENDMENT EFFECTIVE MARCH 19, 2007 (#9)

**Section 106. Remedies.**

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Chatham County Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty ~~in the amount of \$25.00~~, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with North Carolina G.S. 143-215.6(a). Civil penalties shall be assessed in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties each day such violation continues shall be considered a separate and distinct offense. Each day that the violation continues shall constitute a separate offense.

AMENDMENTS EFFECTIVE JANUARY 23, 2008 (#10)

Adopted December 10, 2007

**Section 304. ~~Buffer Areas~~Riparian Buffers Required.**

~~(A) A minimum fifty (50) foot vegetative buffer for development activities is required along all perennial and intermittent waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. A minimum one hundred (100) foot vegetative buffer for development activities is required along all rivers. A minimum one hundred (100) foot vegetative buffer for development~~

~~activities is required along all perennial and intermittent waters within 2,500 feet of rivers. The vegetative buffers listed above shall be required unless the applicant demonstrates that a lesser distance (but not less than thirty (30) feet) is adequate to guard against stream pollution. Evidence may be based on topography, soils, geology, and other pertinent information. (#8)~~

~~A minimum one hundred (100) foot vegetative buffer is required along all perennial streams for all new development activities that exceed the low density option. A buffer width reduction is not allowed for development activities that exceed the low density option. (#8)~~

~~——(B) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices. Desirable artificial streambank or shoreline stabilization is permitted.~~

~~——(C) To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed vegetation, except as provided below.~~

~~1. Clearing, grading or other land disturbing activities which would reduce the effectiveness of the buffer shall be re-vegetated.~~

~~2. Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the buffer. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be designed to minimize the amount of intrusion into the buffer. The buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the lot.~~

~~3. Stream buffers can be used for passive recreational activities such a walking and bicycling trails, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside the buffer. Trails running parallel to the stream shall be located at least ten (10) feet from the edge of the stream. Water oriented recreational facilities, such as boat or fishing piers, shall require an approved use permit from the Watershed Administrator.~~

~~4. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant removal efficiency may be~~

~~permitted.~~

(C) Buffers Required. Where applicable, a permanently protected "riparian buffer" shall be required for development. Field location and classification of streams to locate perennial, intermittent or ephemeral stream will be conducted using the most current NC Division of Water Quality methodologies and methodologies described in this Ordinance. Surface waters or streams may be indicated on the latest USGS 1:24,000 scale (7.5 minute) quadrangle map, the NRCS Soil Survey for Chatham County, NC, and other maps provided by the County. These maps may be used in combination as a screening tool only and do not represent the actual extent and location of surface waters and streams in Chatham County.

(D) Field Delineations. Field delineations of wetlands shall continue to be conducted using the 1987 U.S. Army Corps of Engineers methodologies<sup>12</sup> and supplements for each development project. For the purposes of this Ordinance, all stream classifications must be conducted by a qualified professional who has received documented certification of training in classifying streams and surface waters in North Carolina and; all seep, spring and wetland delineations must be conducted by a qualified professional who has at least 2 years of demonstrated experience in conducting wetlands delineations in North Carolina under the Clean Water Act Sections 401 and 404 provisions. All field determinations of streams, seeps and springs shall be subject to review and approval by the County. Wetlands considered to be non-jurisdictional by the US Army Corps of Engineers or the NC Division of Water Quality are subject to Chatham County riparian buffers.

(C) Exemptions to Riparian Buffer Requirements.

1). Existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing development as set forth in § 103 and §307 of this Ordinance. For the purposes of this Ordinance, the existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing developments are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments.

2). Tracts or parcels that are exempt from the definition

<sup>12</sup> Currently, the applicable version is known as: *Environmental Laboratory (1987) Corps of Engineers Wetlands Delineation Manual*, Technical Report Y-87-1, and supplements, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.

of subdivision as listed below, provided that they are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments:

a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the standards of the subdivision regulations;

b) The public acquisition by purchase of strips of land for the widening or opening of streets;

c) The division of a tract into plots or lots used as a cemetery.

3). Existing Agricultural Activities. (see definition of Agricultural Activities in § 109).

4). Existing Silvicultural Activities. (see definition of Silvicultural Activities in § 109).

(E) Buffers by Surface Waters Classification.

6. Perennial Streams - The riparian buffer shall be one hundred (100') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of perennial streams, or shall be the full horizontal extent of the Area of Special Flood Hazard <sup>13</sup> as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.

7. Intermittent Streams - The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of intermittent streams.

8. Ephemeral Streams - The riparian buffer shall be thirty (30') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides along all ephemeral streams.

9. Wetlands - The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from the delineated boundary, surrounding all features classified as wetlands and linear wetlands.

<sup>13</sup> Chatham County Flood Damage Prevention Ordinance (adopted December 18, 2006).

10. Seeps and Springs - The riparian buffer shall be thirty (30') feet landward surrounding all seeps and springs measured horizontally on a line perpendicular from the delineated boundary.

(E) Identification Procedures.

4. The origins, endpoints and boundaries of classified streams and water bodies shall be clearly marked with flagging and accurately located on a map. All delineated streams, water bodies and boundaries shall be submitted to the County for review and approval. If adjacent property access is necessary to render a classification, permission from the relevant property owner(s) is required. Otherwise, classifications will be based on the observable features within the property in question.

5. Before any land disturbance activities may begin, and in addition to any erosion control notification, the riparian buffer boundaries shall be clearly flagged in the field and approved by county staff. Tree protection fencing or other approved protective measures shall be installed along the approved flagging lines.

6. Allowable methodologies for establishing the location and extent of streams and water bodies in the field is described in the guidance document entitled, "Field Procedures for the Classification of Streams and Waterbodies, Chatham County, NC".

(F) Allowed Structures and Uses in Riparian Buffer.

The following structures and uses are allowed in the riparian buffer:

5. Water dependent structures (see definition of "water dependent structures" herein).

6. Signs and lighting as necessary for public health, safety and welfare purposes.

7. Drainage and forestry maintenance associated with agricultural and silvicultural activities, provided the applicable Best Management Practices are followed.<sup>14</sup>

8. Stream crossings (roads, driveways, trails) that are perpendicular to the stream flow. Stream crossings shall be designed to minimize the amount of stream channel bed and bank

<sup>14</sup> Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; and *Forest Practices Guidelines Related to Water Quality* (15 NCAC 11.0101-.0209).

disturbance and shall comply with all applicable Best Management Practices and permit requirements. Stream crossing design alternatives that are preferred include: arches, span bridges and submerged culverts.<sup>15</sup> The following shall apply for stream crossings:

a. Bents or other support structures for bridges are not allowed within the bankfull area of perennial streams, except where necessary by permit on the Haw, Cape Fear and Deep Rivers.

b. For public road crossings, the crossing design shall be according to the alternative that best meets the intent of this Ordinance and as required by permit.<sup>16</sup>

c. Culverts or arches are allowed for crossing perennial, intermittent and ephemeral streams. Culverts and arches must be sized and designed in accordance to standard design practices, including allowing for safe passage for wildlife and floodplain flows. See footnotes 4, 5 and 6.

d. Fill required for crossings must not restrict flows up to a 25-year, 24 hour storm event, based on hydrologic and hydraulic models. Additional culverts within the "floodplain" and at bankfull elevation may be required to ensure these flows are not restricted. See footnotes 4, 5 and 6.

e. All stream crossings within a riparian buffer require an informal consultation meeting with County staff for private roads and County/NCDOT representatives for public roads, prior to sketch design submittal. See Subdivision Regulations, Section 4.2 A.

f. Concentrated discharge of road or driveway runoff into riparian buffers is not allowed. Diffuse flow into riparian buffers are allowed using Best Management Practices.<sup>17</sup>

<sup>15</sup> See CSI Mitigation Measure No. 7 contained in the *Guidance Memorandum To Address And Mitigate Secondary And Cumulative Impacts To Aquatic And Terrestrial Wildlife Resources And Water Quality*, N.C. Wildlife Resources Commission (August 2002).

<sup>16</sup> *Subdivision Roads Minimum Construction Standards*, N.C. Division Of Highways Board Of Transportation (January 1, 2000.) (This document is currently being amended. Subsequent amendments to this Construction Manual shall apply.)

<sup>17</sup> Stormwater Best Management Practices Manual, NC Division of Water Quality (July,

5. Utilities crossings (water, sanitary sewer, electric, communication lines, easements, manholes, and appurtenances) are allowed in the riparian buffer only where no practicable alternative exists. Where stream crossings are necessary, the preferred methodology for crossings are (1) by attaching to bridges as permitted by NCDOT or private bridge owner; or (2) by directional boring under the riparian buffer and associated stream, water body, wetland, seep or spring, or (3) in combination with road crossings, culvert-type design within the road right-of-way. Culvert-type crossings shall not cause any restriction of stream channel flows up to the 25-year 24-hour design storm. Sewage treatment crossings ephemeral streams may be trenched in accordance with the applicable laws and rules for sewage treatment disposal systems only for on-site (on parcel) sewage treatment systems.

6. Electric, petroleum and gas pipeline construction and maintenance activities within the prescribed easement area.

7. Stream and riparian buffer restoration and associated maintenance activities.

8. All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses. Land disturbance associated with these activities is limited to outer or landward fifty (50') feet for perennial, thirty (30') for intermittent and twenty (20') feet for ephemeral streams, measured from top of bank.

9. Where permitted by state or federal law for public health and safety purposes, wastewater treatment and disposal components, including surface and subsurface wastewater disposal areas. However, any buffer areas disturbed or impacted by these components must meet the erosion and sedimentation control design practices described in the North Carolina Erosion and Sedimentation Control Planning and Design Manual, June 1, 2006 or most current edition.

10. Maintenance activities associated with the uses listed above are allowed.

(G) Prohibited Structures and Uses in Riparian Buffer.

9. Utilities (i.e., gas, electric, communications, water lines, wells, sanitary sewer, lift stations, etc.) except where

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2007).

stream and buffer crossings are required. Stream and buffer crossings for utilities must be perpendicular to stream flow.

10. Receiving, collection, storage or distribution areas for hazardous waste and hazardous materials.

11. Sanitary landfills and landfills as defined in this Ordinance. Mulching or chipping of inert, organic plant materials is allowed for forestry or maintenance activities.

12. Constructed storm water features.

13. Discharge of concentrated storm water runoff or drainage from culverts, ditches, and other conveyances.

14. Entry by motor powered vehicles, except for the purpose of maintaining existing utility corridors (or new power line or gas corridors) and providing emergency services.

15. Excavation, land clearing, grading or fill material that is not allowed by permit.

16. Stream or buffer maintenance activities unless otherwise allowed by permit.

(H) Buffer vegetation requirements.

From and after the date of adoption of this ordinance, any of the above riparian buffers shall minimally remain in their existing vegetated condition. Other than for silvicultural or allowable forest management activities using Best Management Practices, clear cutting or forest thinning activities (less than a density of 100 stems per acre that are greater than 5 inches diameter 54" in height) is prohibited. If this activity occurs, the required buffer widths for the associated stream type must be doubled in width (excluding floodplain widths if applicable). If required, this density evaluation shall be completed by a forester, biologist, or environmental scientist and submitted to the County for review.

The riparian buffer shall otherwise remain in its existing forested condition, or if not forested, the following is required:

3. Natural regeneration of forest vegetation, OR

4. Planting of trees, shrubs, or ground cover plants provided that Best Management Practices are used. Plantings shall consist of species native to Chatham County.<sup>18</sup>

<sup>18</sup> Weakley, Alan S.; *Flora of the Carolinas, Virginia, and Georgia, and Surrounding*

3. Invasive species listed by the North Carolina Botanical Garden may be physically removed from the buffer and is an allowed maintenance activity.<sup>19</sup>

(I) Determination of "No Practicable Alternative" or "Variances".

1. No Practicable Alternative Authorization The process, procedure and requirements for obtaining this authorization is an Administrative Review procedure as found in § 507(A) of this Ordinance.

Owners of a lot who wish to undertake uses designated as "allowed" under subsection F(5) above shall submit a request for a "no practicable alternatives" determination by the Watershed Review Board or delegated authority. The applicant shall certify that the criteria identified in subsections (a), (b) and (c) below are met. The Watershed Review Board or delegated authority shall review the entire project and make a finding of fact as to whether a "no practicable alternatives" determination is met. The Watershed Review Board or delegated authority shall grant an "Authorization Statement" upon a "no practicable alternatives" determination. The procedure for issuing an Authorization Statement shall be based upon meeting all of the following criteria:

(a) The basic project purpose cannot be accomplished in a manner that would cause less land disturbance, preserve aquatic life and habitat, and protect water quality;

(b) The use cannot be reduced in size or density, reconfigured or redesigned to cause less land disturbance, preserve aquatic life and habitat and protect water quality; and

(c) Best Management Practices are used to cause less land disturbance, preserve aquatic life and habitat and protect water quality.

2. Variances. Persons who believe they are entitled to seek relief from a requirement of § 304 of this Ordinance may apply for a Variance. The process, procedure and requirements for obtaining a Variance are found in § 507(B) of this Ordinance.

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Areas, (UNC Herbarium, NC Botanical Garden, 2007).

<sup>19</sup> *Plants to Avoid in the Southeastern United States* compiled by Allison Schwarz and Johnny Randall, Spring 1999; *Controlling Invasive Plants*, NC Botanical Gardens (UNC Press, 2002).

**Section 501. Watershed Administrator and Duties thereof.**

~~(C) Under no circumstances shall the county Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance. The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality.~~

~~(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, North Carolina Division of Environmental Management on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance. The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.~~

**Section 503. Changes and Amendments to the Watershed Protection Ordinance.**

~~(C) Under no circumstances shall the county Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance. Under no circumstances shall the County Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management and with the N.C. Division of Environmental Health.~~

Delete: **ARTICLE 600: DEFINITIONS**

~~Section 601. General Definitions.~~

~~**Agricultural Use.**— The use of waters for stock watering, irrigation, and other farm purposes.~~

~~**Animal Unit.**— A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.~~

~~**Best Management Practices (BMP).**— A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.~~

~~**Buffer.**— An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.~~

~~**Building.**— Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.~~

~~**Built-upon area.**— Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)~~

~~**Clerk to the Watershed Review Board.**— The Watershed Administrator or other person appointed by the county.~~

~~**Cluster Development.**— The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. "Planned Residential Developments," as provided for under the Chatham County Zoning Ordinance and "Planned Unit Developments," as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance. (#7)~~

~~**Compact Community.**— A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development.~~

~~**Composting Facility.**— A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.~~

~~**Critical Area.**— The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.~~

~~**Development.**— Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.~~

~~**Discharging Landfill.**— A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.~~

~~**Dwelling Unit.**— A building, or portion thereof, providing complete and permanent living facilities for one family.~~

~~**Existing Development.**— Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:~~

- ~~— (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or~~
- ~~— (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or~~
- ~~— (3) having expended substantial resources (time, labor,~~

~~money) and having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).~~

~~**Existing Lot (Lot of Record).**— A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.~~

~~**Family Subdivision.**— Family subdivision means one or more divisions of a tract of land (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance. (#1)~~

~~**Hazardous Material.**— Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).~~

~~**Home Occupations.**— Any use conducted entirely within a dwelling or accessory building not larger than 1500 square feet and carried on by the occupants thereof and not more than three non-residents of the property which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any dwelling is used for the occupation.~~

~~**Industrial Development.**— Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.~~

~~**Impervious Surface.**— See Built-upon area.~~

~~**Landfill.**— A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.~~

~~**Lot.**— A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.~~

~~**\* Major Variance.**— A variance that results in any one or more of the following:~~

~~\_\_\_\_\_ (1) the complete waiver of a management requirement;~~

~~\_\_\_\_\_ (2) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard;~~

~~\_\_\_\_\_ (3) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.~~

~~**Minor Variance.**— A variance that does not qualify as a major variance.~~

~~**Non-residential Development.**— All development other than residential development, agriculture and silviculture.~~

~~**Plat.**— A map or plan of a parcel of land which is to be, or has been subdivided.~~

~~**Residential Development.**— Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.~~

~~**Single Family Residential.**— Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.~~

~~**Street (Road).**— A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.~~

~~**Structure.**— Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.~~

~~**Subdivider.**— Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.~~

~~**Subdivision.**— All divisions of a tract or parcel of land into two~~

~~or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:~~

- ~~— (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;~~
- ~~— (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;~~
- ~~— (3) The public acquisition by purchase of strips of land for the widening or opening of streets;~~
- ~~— (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;~~
- ~~— (5) The division of a tract into plots or lots used as a cemetery.~~

~~**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.~~

~~**Variance.** A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.~~

~~**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.~~

~~**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)~~

~~**Watershed Administrator.**— An official or designated person of county responsible for administration and enforcement of this ordinance.~~

~~**Watershed Review Board.**— The Chatham County Board of Commissioners shall designate this review Board.~~

~~**Section 602. Word Interpretation.**~~

~~— For the purpose of this ordinance, certain words shall be interpreted as follows:~~

~~— Words in the present tense include the future tense.~~

~~— Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.~~

~~— The word "person" includes a firm, association, corporation, trust, and company as well as an individual.~~

~~— The word "structure" shall include the word "building."~~

~~— The word "lot" shall include the words, "plot," "parcel," or "tract."~~

~~— The word "shall" is always mandatory and not merely directory.~~

~~— The word "will" is always mandatory and not merely directory.~~

Add: **Section 109. General Definitions**

**Agricultural Activities.** Includes the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

(i) forage and sod crops, grain and feed crops, tobacco, cotton,

and peanuts.

(ii) dairy animals and dairy products.

(iii) poultry and poultry products.

(iv) livestock, including beef cattle, sheep swine, horses,

ponies, mules, and goats.

(v) bees and apiary products.

(vi) fur producing animals.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Animal Unit.** A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

**Bankfull Discharge.** The flow of water which fills a stable alluvial channel to the elevation of the active floodplain. This discharge is morphologically significant because it identifies the bankfull elevation. On average, bankfull discharge occurs every 1.5 years in frequency.

**Bankfull Elevation.** The elevation where flooding occurs on an active floodplain. This elevation may or may not be the top of bank.

**Best Management Practices.** Effective and practical structural or nonstructural methods which prevent or reduce the movement of sediment, nutrients, pesticides and other pollutants from the land to surface or ground water, or which otherwise protect water quality from potential adverse effects of development, silvicultural, agricultural and other land disturbance activities. These practices are developed as industry standards to achieve a balance between water quality and natural habitat protection and the economic benefits and desired use of the land.

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-upon area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Channel.** A natural water-carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

**Clerk to the Watershed Review Board.** The Watershed Administrator or other person appointed by the County.

**Cluster Development.** The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well

as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. "Planned Residential Developments," as provided for under the Chatham County Zoning Ordinance and "Planned Unit Developments," as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance.

**Compact Community.** A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development.

**Composting Facility.** A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. See definition of Land Disturbing Activity.

**Diffuse Flow.** Non-concentrated, low velocity flow of storm water runoff that is spread out or distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

**Discharging Landfill.** A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Ditch or Canal.** An excavated (man-made) channel that is typically dug through inter-stream divide areas. A ditch or canal may exhibit hydrological or biological characteristics

similar to perennial or intermittent streams. For the purposes of this Ordinance, a ditch or canal is not considered to be an ephemeral, intermittent or perennial stream.

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one family.

**Ephemeral (storm water) Stream.** A physically visible feature in the form of a natural channel that conveys water only in direct response to precipitation during or shortly after precipitation events. For the purposes of this Ordinance, an ephemeral (storm water) stream is a well-defined channel which scores between "3 - 18" points on the NCDWQ Stream Identification Form<sup>20</sup>, to distinguish it from an intermittent or perennial stream. (See, *Identification Methods for the Origins of Intermittent and Perennial Streams*, NCDWQ, Version 3.1, 2006). An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) having an outstanding valid building permit as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1), or
- (3) having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1).

**Existing Lot (Lot of Record).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

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<sup>20</sup> From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005)

**Family Subdivision.** Family subdivision means one or more divisions of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance.

**Hazardous Waste.** Any material as defined by 15A NCAC §13A .0106 *Identification and Listing of Hazardous Wastes - Part 261* or any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances) or a RECRA Hazardous Waste that appears on one of the four hazardous wastes lists: (F-List; K-List; P-List or U-List) or exhibits at least one of the four characteristics: ignitability; corrosivity; reactivity or toxicity.

**Home Occupations.** Any use conducted on residential premises and carried on by the occupants thereof, which use is incidental and secondary to the use of the premises for residential purposes and does not change the character thereof.

**Industrial Development.** Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

**Impervious Surface.** See *Built-upon Area*.

**Intermittent Stream.** A well defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by storm water runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water. For the purposes of this ordinance, an intermittent stream will have a minimum score of "19" on the NCDWQ Stream Identification Form, Version 3.1.

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

**Lot.** A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**Major Variance.** A variance that results in any one or more of the following:

- 1) the complete waiver of a management requirement;
- 2) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard;
- 3) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.

**Minor Variance.** A variance that does not qualify as a Major Variance.

**Natural.** When used in reference to streams and channels means those streams and channels formed by the existing surface topography of the earth prior to changes made by man.

**Non-residential Development.** All development other than residential development, agriculture and silviculture.

**Normal Pool Elevation.** The natural or design elevation of a perennial water body.

**Perennial Stream.** A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries storm water runoff. A perennial stream exhibits the typical biological, hydrological and physical characteristics commonly associated with continuous conveyance of water. For the purposes of this ordinance, a perennial stream will have a minimum score of "30" on the NCDWQ Stream Identification Form,<sup>21</sup> Version 3.1.

**Plat.** A map or plan of a parcel of land which is to be, or has been subdivided.

**Residential Development.** Buildings for residence such as

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<sup>21</sup> From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005).

attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**Riparian Buffer.** A natural or vegetated area that provides a protective distance between a seep, spring, stream, perennial water body or wetland and an adjacent land area which may be converted to some other use. The riparian buffer shall be measured horizontally on a line perpendicular from the top of bank or from the normal pool elevation of a perennial water body or wetland.

Seeps and Springs - For purposes of this Ordinance, seeps and springs are areas where groundwater intersects at or near to the ground surface either seasonally or permanently. These areas may or may not be considered jurisdictional by federal (ACoE) standards. Due to the broad variability in the size, number, location, connectivity, condition and other natural characteristics of seeps and springs, one or more of the following conditions must apply:

- e. Hydrophytic vegetation must be dominant. This is judged by the greater areal cover of plants (rooted in the putative seep or spring) with indicator status of obligate wetland (OBL) or facultative wetland (FACW) compared to the areal cover of plants (rooted in the putative seep or spring) with indicator status of upland (UPL) or facultative upland (FACU). Plants with facultative (FAC) indicator status are not considered. This definition may be summarized by the following formula:  $(OBL + FACW) > (UPL + FACU)$ . See Wetland Plants List.<sup>22</sup>
- f. The seep or spring is considered a water of the State of North Carolina by the NCDWQ.
- g. The seep or spring meets the criteria of a wetland based on the 1987 U.S. Army Corps of Engineers Manual.
- h. The seep or spring has surface water present seasonally or permanently.

**Single Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

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<sup>22</sup> See "National List of Vascular Plant Species that Occur in Wetlands" (U.S. Army Corps of Engineers, *1988 Official Wetland Plant List & 1993 Supplement*).

**Silvicultural Activities.** undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality.

**Stream.** A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure.** Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

**Subdivider.** Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- 4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;
- 5) The division of a tract into plots or lots used as a cemetery.

**Top of Bank.** For the purposes of this Ordinance, the point on a stream's cross-section defined by the bankfull elevation or the highest point in elevation immediately adjacent to the stream channel, which ever is greater.

**Toxic Substance.** Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

**Trail Management Plan.** A bound document providing details and descriptions of trail design, materials, alignment, management procedures, responsible party and schedule of maintenance activities to ensure adequate trail operations and maintenance in perpetuity.

The Plan will include, at a minimum, the following:

- a. Existing site conditions (including the status of the protected area)
- b. Needs and purpose (including intended use)
- c. Trail location based on site survey
- d. Design details
- e. Justification
- f. Responsible entity for design, implementation, maintenance and access control
- g. Short and long-term impacts (e.g., future trail relocations) should be identified
- h. Proposed mitigation due to impacts related to water quality and drainage

**Variance.** A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.), or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

**Watershed Administrator.** An official or designated person of the

county responsible for administration and enforcement of this Ordinance.

**Watershed Review Board.** The Chatham County Board of Commissioners shall designate this review Board.

**Wetlands.** "Waters" as defined by N.C.G.S. § 143-212(6) and are areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

**Section 110. Word Interpretation.**

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

AMENDMENTS EFFECTIVE OCTOBER 20, 2008 (#11)

Adopted October 20, 2008

**Attachment A:**

Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and conforming lots of

record, on at least one and one half (1.5) acres, which may have standards set backs as set in the district in which they are located.

Veterinary clinics and hospitals on tracts of land of at least ten (10) acres and where the use of x-ray equipment is limited to that of "digital" systems.

AMENDMENTS EFFECTIVE DECEMBER 2, 2008 (#12)  
Adopted DECEMBER 1, 2008

Section 109. General Definitions.

Conservation Subdivision. An alternative approach to the subdivision of land where large, contiguous blocks of open space are preserved. Developments designed under this approach are granted a density bonus for the developed areas; however under no circumstance is the development allowed to exceed the minimum state mandated watershed district requirements.

**Section 302. Watershed Areas Described.**

(C) WS-III Watershed Areas - Balance of Watershed (WS-III-BW).

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), ~~or~~ compact community, or conservation subdivision.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis except that up to five percent (5%) of the balance of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project by project basis when approved as a special non-residential intensity allocation. The Watershed

Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), ~~or~~ compact community, or conservation subdivision.

(D) WS-IV Watershed Areas - Critical Area (WS-IV-CA)

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per acre on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision.

(E) WS-IV Watershed Areas - Protected Area (WS-IV-PA).

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster

development (#6), ~~or~~ compact community, or conservation subdivision.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), ~~or~~ compact community, or conservation subdivision.

(F) River Corridor (RC)

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall average one dwelling unit per five (5) acres on a project by project basis, except within conservation subdivisions that shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis. No residential lot shall be less than three (3) acres, except within an approved cluster development, ~~or~~ a family subdivision may have lots a minimum of two acres in size, or conservation subdivision. (#1)

(b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. The minimum lot size shall be five (5) acres. No residential lot or non-residential lot shall be less than (5) acres except within an approved cluster development or conservation subdivision.

(G) River Corridor Special Area - (RCSA):

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development or conservation subdivision.

(b) All Other Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. In addition, non-residential uses may occupy fifty percent (50%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision.

(H) Local Watershed Area - (LWA):

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development (#6), ~~or~~ compact community, or conservation subdivision.

(b) All Other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. In addition, non-residential uses may occupy ten percent (10%) of the watershed outside A-G above with a seventy percent (70%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs consistent with the provisions of this ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate

Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), ~~or~~ compact community, or conservation subdivision.

AMENDMENTS EFFECTIVE FEBRUARY 16, 2009 (#13)  
Adopted FEBRUARY 16, 2009

**Section 303. Cluster Development.**

Clustering of development is allowed in all Watershed Areas of the County under the following conditions:

Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 302. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. With regard to land lying within the Pokeberry Creek drainage area, known and referred to as "hydrologic unit # 03030002060010" and within more than one Watershed Area, the total number of lots allowed in the entire project shall be calculated as set forth for the respective applicable Watershed Areas set forth herein, but the lots may be located anywhere within the project and no maximum number of lots shall apply solely within the respective Watershed Areas. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. The applicant shall provide satisfactory evidence to support the cluster design as compared to the design allowed under the standard provisions of the Ordinance.

**Section 505. Establishment of Watershed Review Board.**

(A) There shall be and hereby is created the Watershed Review Board consisting of a minimum of five (5) members appointed by the county Governing Board. The Chatham County Planning Environmental Review Board is hereby appointed as the Watershed Review Board.